

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

Germani Marie Madden (Cannady),

Plaintiff,

v.

Molasky Corporate Center c/o Anna Juarez,

Defendant.

Case No. 2:22-cv-01227-JAD-DJA

**Order**

Under 28 U.S.C. § 1915 Plaintiff is proceeding in this action *pro se* and has requested authority to proceed *in forma pauperis*. (ECF No. 1). Plaintiff also submitted a complaint. (ECF No. 1-1). Because the Court finds that Plaintiff's application is complete, it grants her application to proceed *in forma pauperis*. However, because the Court finds that Plaintiff's complaint does not properly assert sufficient facts, it dismisses her complaint with leave to amend. Because the case has not yet passed screening, the Court also denies Plaintiff's motion for a protective order as premature. (ECF No. 4).

**I. In Forma Pauperis Application**

Plaintiff filed the affidavit required by § 1915(a). (ECF No. 1). Plaintiff has shown an inability to prepay fees and costs or give security for them. Accordingly, the request to proceed *in forma pauperis* will be granted under 28 U.S.C. § 1915(a). The Court will now review Plaintiff's complaint.

**II. Screening the Complaint**

Upon granting an application to proceed *in forma pauperis*, courts additionally screen the complaint under § 1915(e). Federal courts are given the authority to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). When a court dismisses a complaint under § 1915, the plaintiff should be given leave to amend

1 the complaint with directions as to curing its deficiencies, unless it is clear from the face of the  
2 complaint that the deficiencies could not be cured by amendment. *See Cato v. United States*, 70  
3 F.3d 1103, 1106 (9th Cir. 1995).

4 Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for dismissal of a  
5 complaint for failure to state a claim upon which relief can be granted. Review under Rule  
6 12(b)(6) is essentially a ruling on a question of law. *See Chappel v. Lab. Corp. of Am.*, 232 F.3d  
7 719, 723 (9th Cir. 2000). A properly pled complaint must provide a short and plain statement of  
8 the claim showing that the pleader is entitled to relief. Fed.R.Civ.P. 8(a)(2); *Bell Atlantic Corp. v.*  
9 *Twombly*, 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual  
10 allegations, it demands “more than labels and conclusions” or a “formulaic recitation of the  
11 elements of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Papasan v.*  
12 *Allain*, 478 U.S. 265, 286 (1986)). The court must accept as true all well-pled factual allegations  
13 contained in the complaint, but the same requirement does not apply to legal conclusions. *Iqbal*,  
14 556 U.S. at 679. Mere recitals of the elements of a cause of action, supported only by conclusory  
15 allegations, do not suffice. *Id.* at 678. Secondly, where the claims in the complaint have not  
16 crossed the line from conceivable to plausible, the complaint should be dismissed. *Twombly*, 550  
17 U.S. at 570. Allegations of a *pro se* complaint are held to less stringent standards than formal  
18 pleadings drafted by lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding  
19 that liberal construction of *pro se* pleadings is required after *Twombly* and *Iqbal*).

20 Federal courts are courts of limited jurisdiction and possess only that power authorized by  
21 the Constitution and statute. *See Rasul v. Bush*, 542 U.S. 466, 489 (2004). Under 28 U.S.C.  
22 § 1331, federal courts have original jurisdiction over “all civil actions arising under the  
23 Constitution, laws, or treaties of the United States.” Cases “arise under” federal law either when  
24 federal law creates the cause of action or where the vindication of a right under state law  
25 necessarily turns on the construction of federal law. *Republican Party of Guam v. Gutierrez*, 277  
26 F.3d 1086, 1088-89 (9th Cir. 2002). Whether federal-question jurisdiction exists is based on the  
27 “well-pleaded complaint rule,” which provides that “federal jurisdiction exists only when a  
28

1 federal question is presented on the face of the plaintiff's properly pleaded complaint."

2 *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

3 **A. The Court dismisses Plaintiff's complaint without prejudice.**

4 Plaintiff alleges that "Defendants said I was trespassing...stopped me from making my  
5 appointment...called the police unnecessarily...[and] created an opportunity for my abusive  
6 counterpart to access me and my information some how [sic]." (ECF No. 1-1). She claims that  
7 the incident resulted in lost earnings, lost economic opportunities, mental anguish, emotional  
8 distress, loss of enjoyment of life, impairment to her reputation, and humiliation. (*Id.*).  
9 Otherwise, Plaintiff provides no facts. Plaintiff's complaint does not provide enough factual  
10 detail to constitute a claim on which relief can be granted. While the Court construes *pro se*  
11 complaints liberally, it cannot find that Plaintiff has alleged a claim on which relief can be  
12 granted with so few facts.

13 **B. The Court denies Plaintiff's motion for a protective order.**

14 Because Plaintiff's complaint has not yet passed screening, her motion for a protective  
15 order is premature. (ECF No. 4). In her motion, Plaintiff asks the Court to order Defendants to  
16 adhere to procedures in discovery to protect Plaintiff's personal information. (*Id.*). But discovery  
17 has not yet started, and no defendants have been served. The Court thus denies Plaintiff's motion  
18 as premature.

19  
20 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*  
21 *pauperis* (ECF No. 1) is **granted**. Plaintiff shall not be required to pre-pay the filing fee.  
22 Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of  
23 any additional fees or costs or the giving of a security therefor. This order granting leave to  
24 proceed *in forma pauperis* shall not extend to the issuance and/or service of subpoenas at  
25 government expense.

26 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file Plaintiff's  
27 complaint (ECF No. 1-1) on the docket but shall not issue summons.  
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1           **IT IS FURTHER ORDERED** that the complaint (ECF No. 1-1) is **dismissed without**  
2 **prejudice** for failure to state a claim upon which relief can be granted, with leave to amend.  
3 Plaintiff will have until **October 20, 2022** to file an amended complaint if the noted deficiencies  
4 can be corrected. If Plaintiff chooses to amend the complaint, Plaintiff is informed that the Court  
5 cannot refer to a prior pleading (i.e., the original complaint) to make the amended complaint  
6 complete. This is because, generally, an amended complaint supersedes the original complaint.  
7 Local Rule 15-1(a) requires that an amended complaint be complete without reference to any  
8 prior pleading. Once a plaintiff files an amended complaint, the original complaint no longer  
9 serves any function in the case. Therefore, in an amended complaint, as in an original complaint,  
10 each claim and the involvement of each Defendant must be sufficiently alleged. **Failure to**  
11 **comply with this order will result in the recommended dismissal of this case.**

12           **IT IS FURTHER ORDERED** that Plaintiff's motion for a protective order (ECF No. 4)  
13 is **denied without prejudice**.

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15           DATED: September 20, 2022



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DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE